

DOCKET FILE COPY ORIGINAL

01-9

Michael E. Glover
Senior Vice President & Deputy General Counsel



1320 N. Courthouse Road,
8th Floor
Arlington, VA 22201

Tel: (703) 974-2944
Fax: (703) 525-6436
michael.e.glover@Verizon.com

January 16, 2001

RECEIVED

JAN 16 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Office of the Secretary
Federal Communications Commission
Room TW-B-204
445 Twelfth Street, S.W.
Washington, D.C. 20544

REDACTED -
For Public Inspection

Re: Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks Inc., for Authorization To Provide In-Region, InterLATA Services in Massachusetts

Dear Ms. Salas:

This letter provides notice that Verizon New England Inc. ("Verizon") and its long distance company affiliates are hereby formally refileing their Application for authorization to provide in-region interLATA services in Massachusetts.

Consistent with the Commission's prior orders, Verizon hereby formally incorporates in this refiled Application the entirety of the record on Verizon's previous application to provide long distance service in Massachusetts. That previous application was filed on September 22, 2000, but was withdrawn on December 18, 2000 prior to the issuance of a decision. *See Application by Verizon New England Inc., et al. For Authorization to Provide In-Region InterLATA Services in Massachusetts*, CC Docket No. 00-176 (filed Sept. 22, 2000). In addition, Verizon is hereby filing the accompanying Supplemental Filing of Verizon New England to supplement the record amassed on that previous application.

No. of Copies rec'd 0+1
List A B C D E

The Supplemental Filing submitted with this letter contains confidential information, and we are filing confidential and redacted versions.

1. The material being filed with this letter consists of (a) a stand-alone document entitled "Supplemental Filing of Verizon New England" ("the Brief"), and (b) supporting documentation. The supporting documentation is organized as follows:

- a. Appendix A includes declarations and attachments thereto in support of the Brief;
- b. Appendix B consists of miscellaneous materials, including the revised Carrier-to-Carrier Guidelines; Carrier-to-Carrier Performance Standards and Reports for September through November 2000; recent revisions to Verizon's tariffs in Massachusetts; recent Massachusetts DTE orders; recent New York PSC orders; and additional material.
- c. Appendix C consists of unbundled DSL loop and line sharing performance data for individual CLECs, which consists entirely of confidential and proprietary data, including CLEC proprietary data.

2. Specifically, we are submitting for filing with this letter:

- a. One original of only the portions of the Supplemental Filing that contain confidential information (in paper form, except for Appendix C, which at the direction of the Commission's staff, is being filed only on CD-Rom.);
- b. One original of a redacted Supplemental Filing (in paper form);
- c. One copy of the redacted Supplemental Filing (in paper form);
- d. One CD-ROM set containing the Brief and the supporting-documentation portion of the redacted Supplemental Filing; and
- e. Five additional copies of the redacted Supplemental Filing (partly in paper form, partly on CD-ROM, and partly on diskette, in accordance with the Commission's filing requirements), so that each Commissioner may receive a copy.

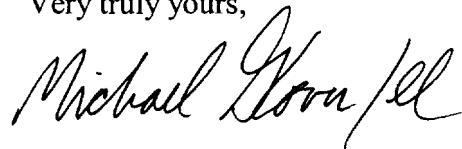
3. We are also tendering to you certain copies of this letter and of portions of the Supplemental Filing for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) of this letter and the accompanying Supplemental Filing to Ms. Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20544. We are also submitting copies (redacted as

appropriate) to the Department of Justice, to the Massachusetts DTE, and to ITS (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 703-974-2944 or Steven McPherson at 703-974-2808.

Very truly yours,

A handwritten signature in black ink that reads "Michael Glover" followed by a stylized flourish or initials.

Michael E. Glover

Encs.

JAN 16 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 01-4

January 16, 2001

TABLE OF CONTENTS

INTRODUCTION AND SUMMARY	1
ARGUMENT	4
I. VERIZON'S DSL-CAPABLE LOOP PERFORMANCE IS STRONG.....	5
A. Pre-Order Timeliness	10
B. Order-Processing Timeliness	15
C. Installation Timeliness	15
D. Loop Quality	20
E. Maintenance and Repair	24
II. VERIZON'S LINE SHARING PERFORMANCE IS STRONG	26
III. VERIZON'S DSL LOOP PERFORMANCE WILL CONTINUE TO BE EXCELLENT AFTER IT OBTAINS SECTION 271 APPROVAL.....	33
IV. PRICING OF NETWORK ELEMENTS.....	37
CONCLUSION.....	42

ATTACHMENTS

Attachment A: Verizon's Checklist Compliance under the 1996 Act

Attachment B: Local Competition in Massachusetts

Attachment C: Required Statements

APPENDICES

Appendix A: Supplemental Declarations

- | | |
|-----------|---|
| Volume 1. | Tab 1 — Joint Supplemental Declaration of Paul A. Lacouture and
Virginia P. Ruesterholz
(Unbundled DSL Loop and Line Sharing Performance) |
| Volume 2. | Tab 2 — Joint Supplemental Declaration of Russell J. Sapienza and
Gerard J. Mulcahy
(Unbundled DSL Loop and Line Sharing Performance) |

Tab 3 — Joint Supplemental Declaration of Robert H. Gertner and
Gustavo E. Bamberger
(Unbundled DSL Loop Performance Data)

Tab 4 — Supplemental Declaration of George Dowell
(Separate Data Affiliate)

Appendix B: Miscellaneous Materials

Tab 1 — Revised Carrier-to-Carrier Guidelines

Tab 2 — Carrier-to-Carrier Performance Standards and Reports

Tab 3 — Recent Tariff Revisions

Tab 4 — Recent Massachusetts DTE Orders

Tab 5 — Recent New York PSC Orders

Tab 6 — Additional Material

Appendix C: Unbundled DSL Loop and Line Sharing Performance Data for Individual CLECs

(Appendix C consists entirely of confidential and proprietary data, including CLEC proprietary data; at the direction of the Commission's Staff, this appendix is being filed only on CD-ROM.)

INTRODUCTION AND SUMMARY

In its original application to provide long distance service in Massachusetts, Verizon made a comprehensive showing that its overall checklist performance is excellent and that its application should therefore be approved. Following an exhaustive review, the Massachusetts DTE agreed, finding that Verizon “has met the requirements of § 271(c) of the Telecommunications Act of 1996 . . . and that the local exchange market in Massachusetts is irreversibly open to competition.” DTE Eval. at 1.

In accordance with the Commission’s prior orders, this re-filed application adopts *in toto* Verizon’s original application. In addition, as the extensive record amassed on Verizon’s original application demonstrates, the only issues that remain in genuine dispute relate to Verizon’s performance on the subset of loops used by other carriers to provide DSL service. Accordingly, this filing both adopts the extensive showing that Verizon has already made with respect to its performance in providing access to DSL-capable loops, and also supplements the record in this respect, providing still further proof that Verizon satisfies the checklist in each and every respect.

Specifically, this supplemental filing demonstrates that Verizon’s performance in providing access to DSL-capable loops has continued to be strong during the most recent three-month period for which data are available. For example, it demonstrates that Verizon is installing between 90 and 95 percent of new unbundled DSL loops on time for its wholesale customers; that approximately 96 percent of these new unbundled DSL loops experience no troubles in any month; and that with respect to the small fraction that do, Verizon repairs them in a timely and nondiscriminatory manner. And Verizon’s performance in providing line sharing has been similarly strong, both in Massachusetts where line sharing demand is still developing, and in New York where Verizon already handles significant commercial volumes of line sharing

orders using the same systems and processes as in Massachusetts. As the Massachusetts DTE previously concluded, “VZ-MA is performing as a wholesale provider should. It gives CLEC customers the service they request.” Id. at 306.

Moreover, since the time of Verizon’s original application, CLECs also have agreed to modify several DSL loop performance measurements to reflect more accurately Verizon’s performance, and have agreed to a set of new performance measurements for line sharing. These measurements recently were adopted by the New York PSC, and, therefore, automatically apply in Massachusetts under the prior orders of the DTE. Calculating the performance results according to these new consensus measurements demonstrates that Verizon’s performance is even better than previously reported. And, to the extent there is a small remaining difference in the wholesale and retail results for any individual measurement, the difference demonstrably is attributable to the CLECs’ own business practices.

Verizon’s unbundled DSL loop and new line sharing measurements also have been independently validated by PricewaterhouseCoopers (“PwC”), which replicated the results reported by Verizon from the underlying raw data. PwC also independently confirmed that the interfaces and other systems and processes that Verizon uses to process line sharing orders in Massachusetts are the same as in New York where Verizon already is successfully handling significant commercial volumes. And it confirmed that that the interfaces, systems, and processes used to handle line sharing orders for Verizon’s separate data affiliate — which is now fully operational in Massachusetts — are the same as those used to process orders from other CLECs. All of this further confirms that Verizon is providing nondiscriminatory performance to its wholesale customers.

Likewise, this supplemental filing confirms that there is no issue with respect to Verizon's rates for unbundled switching in Massachusetts. Verizon has reduced those rates to the same levels that the Commission approved in New York, and which the Commission found fall within the range that a reasonable application of TELRIC principles would produce. In any event, the Massachusetts DTE has recently initiated a comprehensive review of Verizon's unbundled network element rates, and that proceeding is, under well-settled Commission precedent, the appropriate forum to make any arguments with respect to rates.

With the supplemental information provided here, it is all the more clear that the local market in Massachusetts is open to competition, and Verizon's application to provide long distance service there is unquestionably the strongest section 271 application filed to date. Indeed, it is undisputed that, in Massachusetts, the "level of CLEC penetration is greater than the level in either New York or Texas at the time applications were filed in those states." DOJ Eval. at 4. And local competition has continued to grow rapidly in Massachusetts since Verizon filed its original application. See Brief Attachments A & B.

As Verizon has demonstrated previously, consumers in New York have benefited enormously from Verizon's entry into long distance. Indeed, consumers in New York saved a conservatively estimated \$120 million to more than \$250 million in the first year alone as a direct result of Verizon's long distance entry in that state. Consumers in Massachusetts are entitled to receive the very same benefits.

For all these reasons, the Commission should grant this application expeditiously.

ARGUMENT

Verizon's original application demonstrated that its overall checklist performance is excellent, and that its application should be granted. The supplemental evidence provided here further confirms that that is the case.

Indeed, the record amassed on Verizon's original application makes clear that there is no serious dispute that Verizon satisfied 13 and one-half points of the 14-point checklist. That existing record likewise demonstrates that Verizon's overall performance on the last of the checklist items — unbundled loops — also is excellent. In fact, for the majority of the unbundled loops that Verizon provides in Massachusetts — which include new loops, loops provided as part of platform orders, and so-called “hot cut” loops — there is no dispute that Verizon consistently meets or exceeds the performance targets set by the DTE. See Lacouture/Ruesterholz Supp. Decl. ¶¶ 4, 5.¹

The only serious dispute regarding Verizon's unbundled loop performance — and, for that matter, its entire checklist performance — concerns the subset of unbundled loops used to provide DSL service. To put the issue in context, these loops represent less than 2.5 percent of the more than 800,000 competitive lines in Massachusetts. See id. ¶ 7. DSL loops also are a minority of the total unbundled loops in Massachusetts, and even of the stand-alone loops that Verizon has provided in the state. See id. And DSL loops continue to be a minority of the unbundled loops that competitors in Massachusetts are adding on a monthly basis. See id.

Even though DSL loops represent a tiny fraction of the local competition in Massachusetts, Verizon takes its obligation to provide excellent service to customers who

¹ Verizon's hot-cut processes and systems have performed so well that they earned the prestigious ISO 9000 certification from the International Organization for Standardization, an independent worldwide federation of national standards bodies that awards this certification to companies who demonstrate that they meet the expectations of their customers. See id. ¶ 5.

purchase them just as seriously as it does for other kinds of unbundled loops. Indeed, both the existing record and the supplemental evidence provided here reflect Verizon's commitment to providing good wholesale service, and demonstrate that Verizon's performance on this last subset of loops that are used to provide DSL service also is strong.

I. VERIZON'S DSL-CAPABLE LOOP PERFORMANCE IS STRONG.

The Commission has stated that, in evaluating whether a Bell company provides nondiscriminatory access to DSL-capable loops, it will review four specific areas of performance: order-processing timeliness, installation timeliness, loop quality, and maintenance and repair. See Texas Order ¶ 284; New York Order ¶ 335.² The Commission also will examine a Bell company's performance in providing nondiscriminatory access to the pre-ordering functions associated with determining whether a loop can support DSL service. See New York Order ¶¶ 140, 335; Texas Order ¶ 165.

With respect to each of these areas, the Commission has said that it would "analyze competing carrier access to . . . xDSL-capable loops on the basis of performance measures and standards adopted by [the relevant state commission] in a state proceeding." Texas Order ¶ 284; see also New York Order ¶ 333 ("If an applicant chose to make its case by submitting performance data, we would examine carefully the performance standards adopted by the relevant state commission."); id. ¶ 146. The Commission has accordingly "encourage[d]" state commissions "to adopt specific xDSL loop performance standards" that measure a Bell

² Application by SBC Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order, CC Docket No. 00-65, FCC 00-238 (rel. June 30, 2000) ("Texas Order"); Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999) ("New York Order"), aff'd sub nom., AT&T Corp. v. FCC, 220 F.3d 607 (D.C. Cir. 2000).

company's performance with respect to each of the areas of performance that the Commission has identified. New York Order ¶ 334.

In conducting its analysis of a Bell company's performance under the measures adopted by the state commission, the Commission has held that, if "there is no statistically significant difference between Bell Atlantic's provision of service to competitive LECs and its own retail customers," or "if there is no difference between the Bell Atlantic provision of service to competitive LECs and the performance benchmark, [the Commission's] analysis is done." Id. ¶ 58. If, however, there is a "statistically significant difference" between a Bell company's retail and wholesale performance, the Commission will "examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met." Id. ¶ 59. The Commission will, for example, consider explanations about "whether these differences provide an accurate depiction of the quality of [a Bell company's] performance," and may also look at performance data on a "more disaggregated level" and performance trends "in recent months." Id.

Consequently, as the Commission has made clear time and again, the standard in evaluating performance results is not "perfection." See, e.g., id. ¶ 5; Texas Order ¶ 358; Michigan Order ¶ 278.³ Rather, the Commission evaluates an applicant's performance "based on the totality of the circumstances," and "an apparent disparity in performance for one measure, by itself, may not provide a basis for finding non-compliance with the checklist" if the disparity is not "large enough to be deemed discriminatory under the statute." Texas Order ¶ 58. Likewise, the Commission has emphasized that even statistically significant differences may be "non-

³ Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543 (1997) ("Michigan Order").

cognizable under the statutory standard,” because they may “have little or no competitive significance in the marketplace,” New York Order ¶ 59, or may be traced to CLEC behavior or other “factors outside of [the applicant’s] control,” id. ¶ 202.

Applying that framework here demonstrates that Verizon unquestionably provides nondiscriminatory access to DSL-capable loops for its wholesale customers.

First, the Massachusetts DTE has followed the Commission’s roadmap exactly in adopting comprehensive performance measurements that address each aspect of Verizon’s performance in providing access to DSL-capable loops. These measurements were developed in the Carrier-to-Carrier collaborative proceedings “with input from the relevant carriers.” Id. ¶ 334. They contain “clearly-defined guidelines and methodology” that are set forth in a comprehensive document that both the New York PSC and the Massachusetts DTE have adopted. Id.⁴ Moreover, these measurements continue to be refined in ongoing collaborative proceedings as Verizon and other carriers learn through actual experience how reliable and accurate these measurements are, and in light of industry developments that were not anticipated when such measurements were first adopted. See Lacouture/Ruesterholz Supp. Decl. ¶ 14.

⁴ Many of these standards, according to the New York PSC that supervised their formation, “go beyond the § 271 requirements,” for example, by requiring Verizon to meet “stringent absolute targets that relate to NYPSC requirements under the Public Service Law that go beyond Checklist compliance.” Evaluation of the New York Public Service Commission at 8, 12 n.1, CC Docket No. 99-295 (FCC filed Oct. 19, 1999) (“New York PSC Eval.”); see also New York Order ¶ 55 (“adoption by a state of a particular performance standard pursuant to its state regulatory authority is not determinative of what is necessary to establish checklist compliance under section 271. . . individual states may set standards at a particular level that would not apply in other states and that may constitute more or less than the checklist requires”). Consequently, the PSC cautioned that the performance reports are susceptible to “facile misuse” by competitors, and that “a simple totaling of performance measures passes or failures is not an accurate basis on which to determine Checklist compliance or non-compliance; that complex determination should take account as well of the KPMG test, our staff analyses and our technical conferences.” New York PSC Eval. at 2, 7. That caution applies fully here as well.

Second, Verizon has reported its DSL-capable loop performance in Massachusetts under the measurements developed in the Carrier-to-Carrier collaborative proceedings. Several of the DSL loop measurements were recently revised in the Carrier-to-Carrier proceedings. See id. ¶ 15. The new consensus measurements have been adopted by the New York PSC, and, therefore, automatically apply in Massachusetts going forward. See id. In this supplemental filing, Verizon has reported its DSL-capable loop performance for September through November 2000 — the most recent months for which data are available — both under the old measurements that were in effect during these months, and under the new, approved consensus measurements. See id. ¶ 16.

Third, the DSL loop measurements provided here for September through November 2000 include both unbundled DSL loops and line sharing, as required by the approved Carrier-to-Carrier guidelines. See id. ¶ 15. However, the Carrier-to-Carrier collaborative has now reached consensus on a set of new measurements that will separately track Verizon's line sharing performance going forward, and these measurements also were recently approved by the New York PSC. See id. Although Verizon is not required to begin reporting these measures officially until February 2001 (for January results), it nonetheless has, for purposes of this application, calculated its line sharing performance separately for the months of September through November under the new consensus measurements. See id. ¶ 12. And, as explained below, the results are excellent.

Fourth, independent reviews have verified that Verizon has reported its DSL loop and line sharing performance accurately and in accordance with the Carrier-to-Carrier guidelines. As an initial matter, the DTE previously validated Verizon's DSL loop performance data itself and KPMG also validated Verizon's aggregate unbundled-loop-performance data (which included

DSL loops). See id. ¶¶ 18-19.⁵ In addition, PricewaterhouseCoopers has conducted an extensive review of the DSL loop and line sharing performance data that Verizon has submitted with this new application. See Lacouture/Ruesterholz Supp. Decl. ¶ 20; Sapienza/Mulcahy Supp. Decl. ¶¶ 11-13. In conducting this review, PwC independently calculated Verizon’s performance results using Verizon’s raw “source data.” See Sapienza/Mulcahy Supp. Decl. ¶¶ 21-23. PwC then compared these results against the results that Verizon reported itself. See id. ¶ 24.

Finally, with respect to each aspect of DSL performance that the Commission has said it will review, the Massachusetts DTE has confirmed based on its own comprehensive review that Verizon’s performance is strong. The supplemental data provided here confirm that Verizon’s performance also has remained strong since the time of the DTE’s evaluation. The comprehensive record here, therefore, goes well beyond merely establishing a *prima facie* case, which alone would shift the burden of proof to Verizon’s opponents to “produce evidence and arguments that show that the application does not satisfy the requirements of section 271.” Texas Order ¶ 49; accord New York Order ¶ 49.

Here, the fact that the DTE has also given its unqualified approval based on its own extensive evaluation should establish a strong presumption that Verizon’s DSL performance complies with the checklist. Indeed, it is the Commission’s consistent practice to accord maximum deference to state commission determinations that, as here, are based on “exhaustive and rigorous” investigations. New York Order ¶ 51. This practice is consistent with the language and scheme of the Telecommunications Act of 1996, which assigns to state commissions the role of “verify[ing] the compliance of the Bell operating company with the

⁵ See also DTE Eval. at 22-23 (DTE “conducted its own replication of VZ-MA’s xDSL provisioning and maintenance metrics”); DTE Reply at 22 (“xDSL orders were included in KPMG’s aggregate UNE-Loop metrics replication”).

requirements of” the checklist. 47 U.S.C. § 271(d)(2)(B). Moreover, maintaining a strong presumption in favor of state-commission determinations is essential to ensuring that these commissions continue to find it worthwhile to devote the enormous time and resources required to conduct comprehensive reviews of Bell companies’ section 271 applications.

In short, the entirety of the record compiled here demonstrates conclusively that Verizon is providing nondiscriminatory access to unbundled DSL loops, and that its application should be granted.

A. Pre-Order Timeliness.

Verizon provides CLECs with timely access to the same pre-order loop qualification systems and functions in Massachusetts that the Commission concluded satisfied the checklist in the New York Order, and more. See Lacouture/Ruesterholz Supp. Decl. ¶ 27; New York Order ¶ 140.

Access to Loop Qualification Information. As Verizon has demonstrated previously, a CLEC may obtain access to loop qualification information in one of three ways.

First, it may access electronically the same loop qualification database that Verizon’s retail personnel — or, now, its separate data affiliate — use to qualify an end-user customer for DSL service. See Lacouture/Ruesterholz Supp. Decl. ¶ 28. This database contains loop qualification information for more than 91 percent of the access lines in the entire state of Massachusetts. See id. ¶ 30. Moreover, the database has been enhanced since the time of the New York proceeding so that when a CLEC requests a loop that does not qualify for DSL service it is informed of the reasons why. See id. ¶ 31; see also UNE Remand Order ¶ 426.⁶

⁶ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (“UNE Remand Order”).

Verizon has worked closely with CLECs to encourage them to use the mechanized loop qualification database. See Lacouture/Ruesterholz Supp. Decl. ¶ 32. As a result, CLECs are using the database to pre-qualify an increasing percentage of their DSL loop orders. For example, the percentage of CLEC DSL loop orders that were qualified using the database rose from 60 percent in July to between 75 and 80 percent from September through November 2000. See id. And some individual CLECs are now using the database to pre-qualify an even larger percentage of their orders — more than 90 percent in some cases. See id. & Att. E.

Second, Verizon will perform a manual loop qualification for a CLEC upon request, which gives the CLEC the same type of information about a loop that it would get from the loop-qualification database. See id. ¶ 34. When it receives a manual loop qualification request, Verizon first checks the mechanized database. See id. ¶ 35. In some instances, the loop is already included in the database and could have been checked by the CLEC itself. See id. In addition, whether or not the loop is listed in the database, Verizon also will perform a mechanized line test to verify the loop length. See id. ¶ 36.⁷ If the loop is not qualified, then Verizon will provide the same information to the requesting CLEC that it would receive from the mechanized database. See Lacouture/Ruesterholz Supp. Decl. ¶ 37.

⁷ Contrary to the suggestion of some parties, the database provides either the actual loop length or the average of actual loop lengths — not a “theoretical” loop length as in the case of some other companies. While not required to do so, Verizon voluntarily developed this database specifically to provide pre-qualification information on a mechanized basis for CLECs and for its own retail operations. See id. ¶ 28; UNE Remand Order ¶ 429 (ILECs not required to “construct a database on behalf of requesting carriers”). Verizon did not previously have a database for all of the loops in its network, and creating such a database was an enormous undertaking. See Lacouture/Ruesterholz Supp. Decl. ¶ 28. As a result, Verizon populated the database by testing a minimum of ten percent of the loops in each terminal area being tested. See id. ¶ 30. For those loops that were actually tested, Verizon populated the database with the actual length of that loop, and for those that were not, it populated the database with the average of the actual loop lengths from the loops in the same terminal that were tested. See id.

Third, if a CLEC wants even more information about a loop, Verizon will perform an engineering query on request, even though Verizon historically has not performed such requests for its own retail operations. See id. ¶ 38. An engineering query enables a CLEC to get access to the information that is contained in Verizon's back-office systems and its paper records. See id. This option allows CLECs to obtain a full loop make-up, including loop length, type of facility, cable gauge for each section of the loop, location of any load coils, location and length of any bridge tap, as well as additional information. See id.

Timeliness of Access to Loop Qualification Information. Verizon not only is providing access to the loop qualification information it is required to, but also is doing so on a timely basis. The Carrier-to-Carrier collaborative has agreed to, and the Massachusetts and New York commissions have adopted, two performance measurements to track Verizon's performance in providing loop qualification information. See id. ¶ 39. The first measures the time Verizon takes to respond to mechanized loop qualification requests (PO-1-06). See id. From September through November 2000, Verizon consistently met or bettered the parity standard of retail response time plus not more than four seconds for this measurement. See id. The second measurement tracks the time Verizon takes to respond to a request for a manual loop qualification (PO-8-01). See id. ¶ 40. Again, the data provided to the DTE as well as here demonstrate that Verizon consistently meets the established benchmark for completing manual loop qualification requests and returning the response to CLECs. See id. ¶ 40 & Att. J.

Additional Alternatives Agreed to by Verizon. In response to Verizon's original application, some CLECs claimed that Verizon also should provide mechanized access to the limited loop information included in a back-office inventory and assignment system used for voice-grade service, known as the Loop Facility Assignment Control System ("LFACS"). See

id. ¶ 46. As described above, Verizon already provides CLECs with access to the limited loop information currently included in LFACS through engineering queries. See id. ¶ 38.⁸ But, because even the information that is included may be inaccurate or out of date, while Verizon's back-office personnel may use LFACS as a starting point in processing an engineering query, they still must check Verizon's paper records to provide a complete and accurate loop make-up. See id. ¶¶ 38, 47. As Verizon previously explained, this process provides CLECs access to loop make-up information in the same way that it can be obtained by Verizon personnel, and satisfies the requirements of the Commission's UNE Remand Order. See id. ¶ 45.⁹

Moreover, Verizon also has previously offered to develop an electronic interface for CLECs to access the limited loop make-up information currently in LFACS, provided only that the CLECs agree to reimburse Verizon for the costs of this interface. See Lacouture/Ruesterholz Supp. Decl. ¶¶ 50-55. In fact, in February of 2000, Verizon made three alternative proposals for obtaining access to LFACS in the context of the DSL collaborative proceeding, and in the summer of 2000 provided CLECs with concrete cost estimates for two of these proposals. See id. ¶¶ 51-54. To date, no CLEC has agreed to proceed on these terms, nor has any CLEC submitted the issue to arbitration in Massachusetts or any other state. See id. ¶ 54.¹⁰

⁸ As Verizon previously explained, LFACS contains some loop make-up information for at least one loop in only about 10 percent of the serving terminals in Massachusetts. See id. ¶ 47.

⁹ Following the UNE Remand Order, Verizon filed a request for clarification asking the Commission to confirm that the manner in which Verizon provides access to this information meets the Commission's requirements. See Bell Atlantic Petition for Reconsideration and Clarification at 15-17, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (FCC filed Feb. 17, 2000). That request remains pending.

¹⁰ Regardless of how the Commission resolves the pending clarification petition, therefore, Verizon has satisfied its obligations under the Act. Even if the Commission were to construe its prior orders to require electronic access to the information in LFACS, the 1996 Act is clear that any such requirement is not self-effectuating. Rather, it must be implemented through good faith negotiations between carriers, and, if they are unable to reach agreement,

Nonetheless, in order to eliminate any possible concerns relating to this issue, Verizon has agreed to proceed with the development and deployment of a mechanism to provide electronic access to the limited loop make-up information currently in LFACS (and will pursue recovery of the costs it incurs separately). See Lacouture/Ruesterholz Supp. Decl. ¶ 54. Specifically, Verizon has agreed to submit its detailed proposal to provide this capability to CLECs through the established Change Management process in January for discussion at the next scheduled Change Management meeting. See id. ¶ 55. And, because the CLECs have argued that this capability should be treated as a regulatory requirement, Verizon will classify its proposal as such for purposes of prioritization under established Change Management procedures. See id.¹¹

Finally, Verizon has agreed to provide access to manual loop qualification as a separate pre-ordering function (and will pursue recovery of the costs it incurs separately). See id. ¶ 57. Although no CLEC has yet submitted a request for such a capability to the Change Management process — and one major CLEC has noted concerns about it — Verizon is proceeding with the development of a separate manual pre-qualification function in accordance with the Change Management process. See id. Verizon has agreed to submit this proposal to the Change

through arbitration by the relevant state commission. See, e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499, ¶ 1062 (1996); see also Verizon North, Inc. v. Strand, No. 5:98-CV-38, slip op. at 10-11 (W.D. Mich. Dec. 6, 2000); MCI Telecomms. Corp. v. GTE Northwest, Inc., 41 F. Supp. 2d 1157, 1178 (D. Or. 1999). Here, Verizon repeatedly has made clear that it is willing to provide electronic access to the information currently in LFACS and the terms on which it is willing to do so. If any CLEC is not willing to agree to the terms proposed by Verizon, it may submit its dispute to the appropriate state commission for arbitration. What it may not do under the terms of the Act is decline to agree to the proposed terms, decline to submit the issue to arbitration, and then complain that Verizon has failed to provide such access.

¹¹ While the development and deployment of this capability proceeds, Verizon will make available on an interim basis a way for CLECs to obtain access to the limited loop make-up

Management process in January as well, and, because CLECs have argued that it should be a regulatory requirement, Verizon will classify it as such. See id.

B. Order-Processing Timeliness.

Verizon is providing CLECs in Massachusetts with access to ordering systems in a timely manner. Specifically, as demonstrated in Verizon's original application, CLECs have a choice of two interfaces for submitting unbundled DSL loop orders, the Web GUI and an EDI interface. See id. ¶ 58.

Under the measurements agreed to by the Carrier-to-Carrier collaboratives and adopted by the Massachusetts and New York commissions, Verizon measures its timeliness in returning order confirmation notices (OR-1-01 through OR-1-06) and order rejection notices (OR-2-01 through OR-2-06). See id. ¶ 60. Verizon's performance on these measurements has consistently been excellent. For all categories that include DSL loop orders, Verizon's timeliness in returning order confirmations from September through November 2000 has been greater than 98 percent on time. See id. ¶ 61. Likewise, Verizon's timeliness in returning reject notices for DSL loops during that same period has been greater than 97 percent on time for all categories. See id.

C. Installation Timeliness.

Verizon installs unbundled DSL loops on time, as demonstrated by its performance under several different measurements established through the Carrier-to-Carrier collaborative, and adopted by the Massachusetts and New York commissions. See id. ¶ 62.

First, the on-time measurements adopted by the DTE for use in the Performance Assurance Plan ("PAP") show that Verizon consistently installs new DSL loops on time. See id. ¶ 63. For example, from September through November 2000, Verizon's average on-time

information currently in LFACS. See id. ¶ 56. This interim solution will enable CLECs to submit responses to queries electronically. See id.

performance under this measurement for non-strike affected orders ranged from 90 to 95 percent. See id. ¶ 66 & Att. R.¹² Specifically, while the reported results for September and October continued to reflect the impact of the August work stoppage (when installation work for dispatch orders was suspended), when those strike-affected orders are excluded, the September and October results are at or above 90 percent. See Lacouture/Ruesterholz Supp. Decl. ¶ 66 & Att. R. And Verizon's on-time performance in November is better than 95 percent without making any adjustment for the strike. See id. ¶ 67.

The on-time measurements included in the PAP provide the most accurate reflection of Verizon's actual performance. This is so both because these measurements focus specifically on Verizon's performance in installing new DSL loops, and because they exclude orders that are not completed on time because of facilities reasons. See id. ¶ 63. While Verizon is entitled to reject orders where there is not a DSL-capable loop available to serve a customer's location, it nonetheless takes extra steps to find or free up other facilities in order to accommodate its wholesale customer. See id. ¶ 65. Rather than discourage Verizon from trying to provide better service than is required, the Massachusetts and New York commissions have concluded that orders missed for facilities reasons should be excluded from the on-time measurements included in the PAP. See id.

Second, Verizon's strong performance is confirmed by the on-time measurements in the Carrier-to-Carrier reports (PR-4-14 through PR-4-18). See id. ¶ 69. These measurements

¹² Attachment R of the Lacouture/Ruesterholz Supplemental Declaration provides details of every order that was excluded in making strike-related adjustments to the installation measurements. For each excluded order, it identifies the order number, the CLEC, and the reason the order was excluded. As explained in their accompanying declaration, PricewaterhouseCoopers also verified that Verizon accurately excluded orders affected by the August work stoppage from the September and October results. See id. ¶ 68; Sapienza/Mulcahy Supp. Decl. ¶¶ 78-84.

previously did not exclude orders missed for facilities reasons, although the CLECs have now agreed in the collaborative proceedings to exclude them going forward. See id. Nonetheless, even without excluding facilities misses, these measurements show that Verizon completed from more than 85 percent to nearly 90 percent of non-strike affected orders on time from September through November 2000. See id. ¶ 69 & Att. S. And going forward, the results for this measurement will match the PAP measurement described immediately above under which Verizon has completed between 90 and 95 percent of DSL loop orders on time.

Third, Verizon's strong performance is further confirmed by the missed installation appointment measurements included in the Carrier-to-Carrier reports (PR-4-04 and PR-4-05). See id. ¶ 70. As Verizon previously explained, the missed appointment measurements developed in the Carrier-to-Carrier collaborative process and adopted by the Massachusetts and New York commissions track Verizon's performance separately for orders that require a dispatch outside the central office and for those that do not. See id. This permits a more direct, apples-to-apples comparison than an aggregate measurement because dispatch orders naturally tend to be more complex and more difficult to provision than non-dispatch orders. See id.

With respect to dispatch orders — which make up the overwhelming majority of CLEC unbundled DSL loop orders — in October and November 2000, Verizon met 96.33 percent and 97.60 percent of its installation appointments for CLECs. See id. ¶¶ 71-72. By comparison, Verizon met 96.82 and 95.79 percent of the appointments for its own retail orders requiring a dispatch during these months. See id. ¶ 72 & Att. T. Verizon's September results were affected by the August work stoppage, because appointments missed in August and completed in September were recorded as missed appointments in the September results. See id. For September orders that were not affected by the work stoppage, however, Verizon's performance

was comparable to October and November (96.21 percent). See id. ¶ 72 & Att. V (detailing strike-affected orders that were excluded in calculating the adjustment). And PwC verified that Verizon accurately excluded strike-affected orders from this calculation. See id.; Sapienza/Mulcahy Supp. Decl. ¶¶ 83-84.

In sum, Verizon's missed-appointment performance is comparable to or better than what the Commission previously found acceptable in Texas. See id. ¶ 73. SBC missed between 3 and 7.7 percent of DSL installation appointments for CLECs, see Texas Order ¶ 297 n.830, which is up to more than twice as many as Verizon has missed since the work stoppage, see Lacouture/Ruesterholz Supp. Decl. ¶ 73.

Fourth, the next performance measurement — Average Interval Completed — shows that Verizon not only is installing DSL loops on time, but also that Verizon is providing DSL loops on a nondiscriminatory basis. See id. ¶ 74. Again, the measurements established through the collaborative process and adopted by the Massachusetts and New York commissions track the average intervals separately for orders that require a dispatch outside the central office (PR-2-01) and those that do not (PR-2-02). See id. And again, the overwhelming majority of CLEC unbundled DSL loop orders are dispatch orders. From September through November 2000, the weighted average completion interval for orders that required a dispatch was 8.32 days for CLECs, while the average interval for Verizon's retail DSL orders was 8.48 days. See id. ¶ 75.

Finally, one new interval measurement that was reported for the first time in July 2000 (PR-3-10) proved to be fundamentally flawed as initially defined and reported, and did not accurately reflect Verizon's performance. See id. ¶ 76. This new measurement, which is not one that this Commission has relied on or even examined in its prior orders, see Texas Order ¶¶ 291-297, was intended to track the percentage of orders completed within six days (the standard

interval for unbundled DSL loops), see Lacouture/Ruesterholz Supp. Decl. ¶ 76.¹³ In response to Verizon's original application, some CLECs argued that the reported results for this measure showed that Verizon was not providing nondiscriminatory performance to its CLEC customers.

As Verizon previously has demonstrated, however, this measurement as originally defined also included orders that appropriately had installation intervals of greater than six days. See id. ¶¶ 77-79. Since the time of Verizon's original application, the CLECs have acknowledged that this measurement as initially defined was flawed, and have agreed in the Carrier-to-Carrier collaborative proceedings to revamp it significantly going forward. See id. ¶ 76. Specifically, the CLECs have agreed to, and the New York PSC has approved, several changes to this measurement to (1) exclude orders that have not been pre-qualified; (2) exclude orders where the CLEC requested an interval of longer than six days, whether or not such orders were properly coded by the CLEC to indicate the longer requested interval; and (3) exclude orders that were missed due to facilities reasons. See id. ¶¶ 77-79.

In order to determine the impact of these changes, Verizon asked Dr. Robert Gertner of the University of Chicago and his colleague Dr. Gustavo Bamberger at Lexecon, to calculate Verizon's performance for September through November 2000 according to the newly adopted consensus definitions for this measurement. See id. ¶ 81; Gertner/Bamberger Supp. Decl. ¶¶ 11-13.¹⁴ In order to determine whether Verizon was in fact providing nondiscriminatory service to

¹³ As explained in the accompanying declarations, only a small subset (less than 20 percent) of the unbundled DSL loops that Verizon provides in Massachusetts are included in this measurement, and, as a result, reported performance for this subset does not have a material impact on Verizon's overall performance results. See Lacouture/Ruesterholz Supp. Decl. ¶ 84; Gertner/Bamberger Decl. ¶ 18.

¹⁴ Drs. Gertner and Bamberger also corrected for the fact that Verizon had failed to take into account the fact that orders arriving on weekend days and holidays, and orders received after 5 p.m., should be treated as though they were received the following business day for this